IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2239/2004

PRAMOD KUMAR SHARMA Vs. STATE OF RAJASTHAN & ORS.

DATE: 04.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Hari Krishan Sharma for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.

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Pursuant to the advertisement issued by the respondents, the petitioner applied for mining lease and the same has been granted and the petitioner was operating the mining lease but later on it was observed that the mining lease is granted in the land belongs to Forest Department. The petitioner moved an application for correction in the revenue record but the same has been rejected by the S.D.O., Hindaun vide order dated 29.04.2003 holding that the disputed land is situated in the forest area and the application has not been moved by the Tehsildar.

The Tehsildar Nadoti moved an application on 06.08.2003 with the request that Khasra No. 353 measuring 5.82 Hectare in Village Jahra be declared as Siwai Chak under Section 136 of the Rajasthan Land

Revenue Act. The said application was replied by the S.D.O., Hindaun vide Annexure-10 dated 18.08.2003 that since the application moved on behalf of the petitioner has already been decided and rejected in Case No. 84/2002, therefore, no further action is required.

Both the aforesaid orders Annexures-8 and 10 dated 29.04.2003 and 18.08.2003 respectively have been challenged in this writ petition on the ground that the petitioner was not given opportunity of being heard and the application of the petitioner has been rejected only on the ground that Tehsildar has not moved any application for correction in the entries of revenue record.

Learned counsel appearing for the State has submitted that at the time of submission of application by the petitioner on 25.10.2002, entry in the revenue record was made in favour of the Forest Department, therefore, the mining lease could not be granted. Later on, the Tehsildar moved an application for correction in the revenue entries which has been rejected without considering on its merit, but on the ground that the application moved on behalf of the petitioner has already been decided in the earlier case.

Having heard the rival submissions of the respective parties and upon careful perusal of the

orders impugned dated 29.04.2003 (Annexure-8) and 18.08.2003 (Annexure-10), it is not disputed that at the time of granting mining lease, the land was recorded in favour of the Forest Department, but the application for correction in the revenue entries moved on behalf of the petitioner has been dismissed only on the ground that no such application has been moved by the Tehsildar and it should be filed on behalf of the Tehsildar for correction in the entries in the revenue record, whereas vide Annexure-10 dated 18.08.2003, the application moved by the Tehsildar dated 06.08.2003 has been rejected stating therein that order has already been passed on the earlier application filed by the petitioner in Case No. 84/2002 on merit.

Therefore, the SDO, Hindaun has committed an error in rejecting the application moved on behalf of the Tehsildar not on merit but has rejected the same simply because the application of the petitioner has already been rejected. Thus, I find illegality in the order impugned dated 18.08.2003 (Annexure-10) passed by the Sub Divisional Officer, Hindaun and the same deserves to be quashed and set-aside.

Consequently, the impugned order dated 18.08.2003 (Annexue-10) passed by the Sub Divisional Officer, Hindaun is hereby quashed and set-aside and

the matter is remanded back to the Sub Divisional officer, Hindaun for fresh adjudication on the application filed on behalf of the Tehsildar, Nadoti dated 06.08.2003 and decide the same on merit by speaking order.

With these observations, the writ petition stands disposed of.

(K.S. RATHORE),J.

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